

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ESTILL COUNTY WATER DISTRICT NO. 1 AND)	
ITS INDIVIDUAL COMMISSIONERS,)	CASE NO.
GREG WRIGHT, WILLIAM BEARD,)	2017-00467
AND JERRY ARNOLD)	
_____)	
)	
ALLEGED FAILURE TO COMPLY)	
WITH KRS 278.300)	

ORDER

On May 10, 2017, Estill County Water District No. 1 (“Estill District”) filed its rate application pursuant to 807 KAR 5:076.¹ Pursuant to the Commission’s Order of June 12, 2017, Commission Staff filed a report (“Staff Report”) setting forth its findings and recommendations on August 9, 2017. On August 18, 2017, the Commission, by Order, found that a hearing should be held to take evidence on Estill District’s application for rate adjustment.² The August 18, 2017 Order instructed Estill District to be prepared to discuss indebtedness that was incurred without adhering to the procedures in KRS 278.300, specifically three outstanding loans payable to Citizens Guaranty Bank (“Citizens”), originating on October 31, 2013 for \$200,305.00; January 29, 2015 for \$100,305.00; and January 24, 2017 for \$110,330.00. The three Citizens loans were issued on four-year terms. The August 18, 2017 Order also instructed Estill District to be

¹ Case No. 2017-00176, *Electronic Application of Estill County Water District No. 1 for Rate Adjustment pursuant to 807 KAR 5:076* (KY. PSC May 10, 2017).

² See Case No. 2017-00176, *Electronic Application of Estill County Water District No. 1 for Rate Adjustment pursuant to 807 KAR 5:076* (KY. PSC Aug. 18, 2017).

prepared to discuss the reasons it incurred debt to pay operating expenses and debt payments, rather than meeting its financial obligations from operating revenues.³ A hearing was held on November 1, 2017, during which testimony and evidence were taken that further support the findings in the Staff Report. Estill District commissioners, Greg Wright, chairman; William Beard, treasurer; and Jerry Arnold, secretary; testified that they signed promissory notes on behalf of Estill District creating indebtedness in the form of the three outstanding loans payable to Citizens referenced above. The four-year terms of the three loans appear not to comply with KRS 278.300(8)⁴, which grants an exception for loans with an initial term of not more than two years.

KRS 278.300(1) states that no utility shall issue any form of indebtedness unless it has been authorized to do so by an Order of the Commission. The Commission finds that a *prima facie* case exists that Estill District violated KRS 278.300 by issuing evidences of indebtedness to Citizens without Commission approval.

Pursuant to KRS 74.020(1), a water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The Commission finds that a *prima facie* case exists that Estill District commissioners Greg Wright, chairman; William Beard, treasurer; and Jerry Arnold, secretary; acting in their respective individual capacities as commissioners of Estill District, willfully aided and abetted in the above violation.

³ *Id.* at 1–2.

⁴ Video Recording of the November 1, 2017 Hearing, Testimony of Greg Wright, 9:16:57-11:08:11; Testimony of Jerry Arnold, 11:21:24- 12:22:04; Testimony of William Beard, 1:18:04-1:36:41.

IT IS THEREFORE ORDERED that:

1. Estill District; and commissioners Greg Wright, chairman; William Beard, treasurer; and Jerry Arnold, secretary; individually and in their respective capacities as commissioners of Estill District, shall submit to the Commission individual written responses to the allegations contained herein within 20 days of the date of entry of this Order.

2. Estill District; and commissioners Greg Wright, chairman; William Beard, treasurer; and Jerry Arnold, secretary; individually and in their respective capacities as commissioners of Estill District, shall appear on February 27, 2018, at 9:00 a.m. Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, to show cause, if any, why they should not be subject to penalties pursuant to KRS 278.990 for failure to comply with the requirements of KRS 278.300..

3. Estill District shall file with the Commission, no later than February 20, 2018, seven days prior to the hearing, a list of witnesses and exhibits to be presented at the February 27, 2018 hearing. Estill District shall provide six copies of any exhibit it intends to introduce into evidence at the hearing.

4. Estill District shall give notice of the hearing in compliance with 807 KAR 5:001, Section 9(2)(b). In addition, the notice of hearing shall include the following statement: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov." At the time the notice is mailed or publication is requested, Estill District shall forward a duplicate of the notice and request to the Commission.

5. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

6. The record of Commission Case No. 2017-00176 is made a part of the record by reference only.

By the Commission

ENTERED
JAN 11 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2017-00467

Jerry Arnold
Commissioner
Estill County Water District #1
76 Cedar Grove Road
Irvine, KY 40336

William Beard
Commissioner
Estill County Water District #1
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Greg Wright
Chairman
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